

STATE OF SOUTH CAROLINA

(Caption of Case)

In the matter of Application of Allied Wireless
Communications for Designation as an Eligible
Telecommunications Carrier Pursuant to Section 214
(e)(2) of the Communications Act of 1934

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2010 - 385 - C

(Please type or print)

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<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
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BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2010-385-C

In the Matter of Application of Allied)	
Wireless Communications for Designation)	PROPOSED ORDER
as an Eligible Telecommunications Carrier)	
Pursuant to Section 214(e)(2) of the)	
Communications Act of 1934)	

I. PROCEDURAL BACKGROUND

This matter comes before the South Carolina Public Service Commission (“Commission”) upon the petition of Allied Wireless Communications Corporation, d/b/a Alltel (“Allied”) as a competitive eligible telecommunications carrier (“CETC”) in South Carolina, pursuant to 42 U.S.C. § 214(e)(2), for purposes of receiving federal high cost universal service support (“USF”). This is the first such application that the Commission has considered since the Federal Communications Commission (“FCC”) issued its order imposing an emergency interim cap on federal USF for CETCs.¹ Therefore, it is the first application for which the Commission must consider that designating an additional ETC will reduce funding for previously-designated CETCs by a corresponding amount.²

¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, FCC 08-122, 23 FCC Rcd 8834 (2008) (*Interim Cap Order*).

² Designation of HTC Communications, LLC as a CETC also reduced funding available to previously-approved CETCs, but on an ad hoc basis. The Commission held a hearing on HTC’s application on February 28, 2008, and issued its order designating HTC as an ETC on April 17, 2008. The FCC subsequently issued its *Interim Cap Order* on May 1, 2008; however, the cap was effective as of March 2008. Thus, while HTC’s funding was not included in the capped amount for South Carolina, HTC was designated prior to the FCC’s issuance of the *Interim Cap Order*, so the Commission did not have the issue of capped funding before it.

A public hearing was held in this matter on March 3, 2011. Allied was represented by Charles L.A. Terreni and David LaFuria (*pro hac vice*). Allied presented the direct and rebuttal testimony of Rohan Ranaraja.

Farmers Telephone Cooperative, Inc. and FTC Communications, LLC ("Farmers"), Horry Telephone Cooperative, Inc. ("Horry"), and Piedmont Rural Telephone Cooperative, Inc. and PRTCommunications, LLC ("Piedmont") (collectively, the "Rural Companies"), were represented by M. John Bowen, Jr., and Margaret M. Fox. The Rural Companies presented the direct and surrebuttal testimony of Glenn H. Brown. M. John Bowen, Jr., and Margaret M. Fox also represented the South Carolina Telephone Coalition ("SCTC"). The SCTC did not present a witness.

The Office of Regulatory Staff ("ORS") was represented by Nanette S. Edwards and C. Lessie Hammonds. ORS presented the testimony of Christopher J. Rozycki.

II. LEGAL REQUIREMENTS FOR DESIGNATING CETCs

This docket was established to consider Allied's petition to be designated as a wireless CETC for purposes of receiving federal USF. Section 254(e) of the federal Telecommunications Act of 1996 ("Act") provides that only an ETC as designated under Section 214(e) of the Act may receive federal universal service support.

The goal of universal service is to ensure the widespread availability of affordable basic local exchange telephone service. Universal service has long been a public policy. See, e.g., 47 U.S.C. § 151, § 254; see also S.C. Code Ann. § 58-9-280(E), Commission Order No. 2001-419 in Docket No. 97-239-C at pp. 25-31 (Section III, Universal Service Policy and History). Any consideration of a petition to designate an ETC for purposes of receiving federal funds intended

to preserve and advance universal service must be undertaken in a manner consistent with these overall goals.

Section 214(e) requires that a telecommunications carrier seeking designation as an ETC must offer the services that are supported by federal universal service support mechanisms, and must advertise the availability of those services and the charges therefor using media of general distribution. See also S.C. Code Ann. Regs. § 103-690(C)(a)(6)-(7).

The Federal Communications Commission (“FCC”) has defined the services that are supported by Federal universal service support mechanisms to include the following nine (9) core services:

1. voice grade access to the public switched network;
2. local usage;
3. dual tone multi-frequency signaling or its functional equivalent;
4. single party service or its functional equivalent;
5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a). These nine services must be offered throughout the service area for which the designation is received, and must be offered using either the ETC’s own facilities or a combination of its own facilities and resale of another carrier’s services. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1).

The Commission has adopted additional requirements that must be met by carriers seeking ETC designation from the FCC. See S.C. Code Ann. Regs. § 103-690(C)(a) The Commission's additional requirements provide in part that the carrier must:

- (1) (A) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service;
- (B) Submit a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis, or on a cell site-by-cell site basis if the applicant is a wireless carrier throughout its proposed designated service area;
- (2) Demonstrate its ability to remain functional in emergency situations;
- (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards;
- (4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation;
[and]
- (5) Certify by affidavit signed by an officer of the company that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area;.

Specifically, with respect to the two-year plan, the Commission requires that each applicant must demonstrate:

1. How it plans to expand its network to ensure that unserved and underserved rural or high-cost areas will receive sufficient signal quality, that coverage or capacity will

improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation;

2. A detailed map of the coverage area before and after the improvements and in the case of a CMRS provider, a map identifying existing and proposed tower site locations;
3. The specific geographic areas where the improvements will be made;
4. The projected start date and completion date for each improvement;
5. The estimated amount of investment for each project that is funded by high-cost support;
6. A statement as to how all of the facilities funded by high-cost support are eligible for such support;
7. The estimated population that will be served as a result of the improvements;
8. If an applicant believes that service improvements in a particular wire center or on a particular cell site are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area; and
9. A statement as to how the proposed improvements funded by universal service dollars would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.

S.C. Code Ann. Regs. § 103-690(C)(a)(1)(B).

In addition to these requirements and prior to designating a carrier as an ETC, the Commission must find that it is in the public interest to do so. Section 214 of the Federal Telecommunications Act provides in part as follows:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

47 U.S.C. § 214(e)(2) (emphasis added.) Thus, the Commission may choose not to designate additional ETCs in areas served by rural telephone companies. In fact, former Chairman of the FCC Kevin Martin expressly recognized that it may make perfect sense to have only one designated ETC in some high-cost areas.³

If the Commission decides to designate an additional ETC in an area served by a rural telephone company, it must first find that such designation is in the public interest. The FCC's public interest standard has evolved to become more stringent over time. See Tr. at 212.

States are free to apply their own public interest standard, and the Commission has been ahead of its time in carefully examining the public interest in each case. See, e.g., Order No. 2007-804 in Docket No. 2003-227-C, at pp. 7-13; Order No. 2007-805 in Docket No. 2007-193-C, at pp. 5-8 and 14-17; Order No. 2008-273 in Docket No. 2007-402-C, at pp. 5-8. The Commission has further defined the public interest standard as it relates to designating ETCs in areas served by rural telephone companies by promulgating a regulation, which provides:

³ Chairman Martin stated: "I also note that I have some concerns with the Commission's policy – adopted long before this Order – of using universal service support as a means of creating 'competition' in high cost areas. I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. This policy may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund." 2nd R&O and FNPRM in CC Docket No. 00-256, 15th R&O in CC Docket No. 96-45, and R&O in CC Docket Nos. 98-77 and 98-166, Released November 8, 2001, *Separate Statement of Commissioner Kevin J. Martin*.

(b) Public Interest Standard. Prior to designating an eligible telecommunications carrier pursuant to 47 U.S.C. Section 214(e)(2), the commission must determine that such designation is in the public interest. In doing so, the commission shall consider, *inter alia*, the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering.

S.C. Code Ann. Regs. § 103-690(C)(b).

More recently, with the adoption of the *Interim Cap Order*, the FCC appears to be coming more in line with what the South Carolina Commission has known all along – that federal USF is a scarce and important public resource, and that the public interest determination must be carefully weighed and determined in each case, and particularly those affecting areas served by rural telephone companies. See, e.g., Order No. 2007-805 at p. 8.

III. HISTORY OF CETC DESIGNATIONS IN SOUTH CAROLINA

The Commission has previously designated three wireless carriers as CETCs for purposes of receiving federal high-cost USF. See Order No. 2007-804 in Docket No. 2003-227-C (designating Cricket Communications f/k/a Hargray Wireless); Order No. 2007-805 in Docket No. 2007-193-C (designating FTC Communications); Order No. 2008-273 in Docket No. 2007-402-C (designating HTC Communications). In addition, the Commission has designated a number of carriers, including wireless carriers, whose applications were limited to the receipt of federal support for the provision of services to low-income subscribers, *i.e.*, Lifeline and Link-Up support. See, e.g., Order No. 2009-879 in Docket No. 2009-144-C (designating SafeLink Wireless); Order No. 2011-76 in Docket No. 2010-91-C (designating Assurance Wireless).

Alltel Communications, Allied's predecessor in the exchanges at issue in this proceeding, has previously field two applications before the Commission for designation as an ETC throughout the State of South Carolina. See Docket Nos. 2003-151-C and 2007-151-C. Alltel's first application was withdrawn with prejudice following a hearing on the matter. See

Commission Order No. 2003-702. Alltel's second application was held in abeyance after Alltel agreed in the context of an FCC merger proceeding not to seek additional federal USF as a CETC.⁴ See Commission Order No. 2007-910 (holding application in abeyance). Alltel's second request for designation as a CETC was later withdrawn as well. See Commission Order No. 2011-246 (granting Alltel's request to withdraw application). Allied has argued that it is a separate company and that Alltel's prior actions have nothing to do with Allied. While it is true that Allied is a different company, the exchanges and network are the same. Allied's witness, Mr. Ranaraja, was employed by Alltel and testified for Alltel in the second proceeding. In fact, in some other states where Alltel was previously designated as a CETC, Allied was designated essentially in Alltel's place.⁵ It appears that Allied would like to step into Alltel's shoes when there is a benefit to be obtained, but would like to be treated as a completely different entity when that is more convenient.

This Commission has carefully and diligently considered the impact on the public interest of designating additional CETCs in South Carolina, and has been prudent in doing so. More recently, the FCC became alarmed by and took steps to reign in the explosive growth in high-cost federal USF disbursements. On May 1, 2008, the FCC issued its order adopting an interim, emergency cap on the amount of high-cost support that CETCs may receive. *Interim Cap Order*

⁴ Noting that Alltel was the "largest beneficiary of competitive ETC funding and account[ed] for 29 percent of all high cost fund payments to ETCs, the FCC placed an immediate cap on Alltel's receipt of CETC funding, finding that it was in the public interest to do so in the context of the proposed transaction because of "Alltel's significant role in the expansion of the high cost fund." Memorandum Opinion and Order, *In the Matter of Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings, LLC, Transferee, for Consent to Transfer Control of Licenses, Leases and Authorizations*, WT Docket No. 07-128, FCC 07-185 (rel. October 26, 2007). This occurred before the FCC ordered an emergency cap on high cost USF funding for all CETCs.

⁵ *See, e.g., Application of Allied Wireless Communications Corporation for Designation as an Eligible Telecommunications Carrier in the State of Georgia*, Docket No. 31734, Order Granting ETC Status (filed October 14, 2010) (in which the Georgia PSC granted Allied's request for ETC designation on a retroactive basis so that there would be no gap between Alltel's and Allied's provision of service as ETCs).

at para. 1. This interim cap remains in place as the FCC considers comprehensive universal service and intercarrier compensation reform.

As previously noted, the most recent application requesting CETC designation for the purpose of receiving high-cost federal USF that was considered by the Commission was granted in April 2008, prior to the FCC's issuance of the *Interim Cap Order*. Thus, this proceeding marks the first time that the Commission has had before it an application from a carrier to be designated as a CETC that would require the Commission to consider diverting funds from other previously-approved CETCs. Part of the Commission's deliberation, therefore, should be whether it is in the public interest to do so.

IV. DISCUSSION

1. Allied has not adequately demonstrated that it is in the public interest for the Commission to designate Allied as a CETC in South Carolina

As the Applicant in this proceeding, Allied bears the burden of demonstrating that its designation as a wireless CETC would serve the public interest. See Commission Order No. 2007-805 at p. 6 (citing to FCC's orders in *Virginia Cellular* and *Highland Cellular*);⁶ Commission Order No. 2008-273 at p. 5 (citing to FCC's *ETC Designation Order*).⁷ While Allied has demonstrated that it would like to receive funding, and that it can spend additional money on its wireless network, Allied has not sufficiently demonstrated to the Commission that its designation as a CETC would serve the public interest. This is especially important in this case because Allied's proposed designated area is so large that, if the Commission were to

⁶ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as and Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, FCC 03-338, CC Docket No. 96-45 (rel. January 22, 2004); *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as and Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, FCC 04-37, CC Docket No. 96-45 (rel. April 12, 2004).

⁷ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 20 FCC Rcd at 6392-95, ¶¶ 48-53 (2005).

approve its application, Allied would become the largest recipient of CETC funding in South Carolina. As more fully discussed below, this would come at the expense of other previously-approved CETCs.

During the course of the proceeding, there was some confusion regarding the number and location of towers that Allied currently has, the number and location of towers that it intends to build in the absence of funding, and the number and location of towers that it proposes to build if funding is approved. Allied's witness appeared confused regarding how many towers Allied currently has in South Carolina. See Tr. at 130 (stating there was "probably a discrepancy" between his statement that Allied currently had 182 towers and the 194 existing cell sites stated in Allied's two year plan); see also Tr. at 175-176. It was not clear which or how many of Allied's proposed towers depended on federal USF funding and which or how many would be built in the absence of funding. See Confidential Exhibit 5 to Allied's Application (Allied's two-year network improvement plan, which does not designate which towers would or would not be built in the absence of funding); see also Tr. at 150-154 (wherein Mr. Ranaraja is questioned regarding the specifics and does little to clarify the facts). In fact, in discussing the number and location of proposed towers, Mr. Ranaraja referred to a map that was neither in evidence nor filed with Allied's application before the Commission. See Tr. at 133-136. The map was later entered as Revised Hearing Exhibit No. 3 and characterized as the "accurate" map that "matches up to" Allied's plan [Tr. at 176, line 25 through 177, line 3], with Allied's counsel stating he had "no idea how a draft map worked its way into this application." See Tr. at 176, lines 24-25. While the revised map was entered into evidence (over the Rural Companies' objection), this is another indication of the lack of clarity and specificity of Allied's proposed plan. Allied's proposal does not meet the requirement of S.C. Code Ann. Regs. § 103-690(C)(a)(1)(B)(9) that

the applicant state how the proposed improvements funded by universal service dollars would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.

Additionally, there was some confusion as to whether Allied and other carriers had applied for designation in North Carolina and Georgia after the cap, and whether or not that had impacted any carriers in those states. See Tr. at 157-158. Mr. Ranaraja later clarified in response to specific questions that other carriers had been designated after Alltel, not Allied, in those states, and that Allied's designation did not impact other carriers because it was "linked to" Alltel's prior designation. See Tr. at 160-161.

The confusion surrounding Allied's two-year plan, and the lack of a clear understanding of where the money will be spent and whether Allied would complete its build out in the absence of federal USF funding, is sufficient reason alone to deny Allied's application for designation as a CETC, because Allied failed to meet the regulatory requirement of S.C. Code Ann. Regs. § 103-690(C)(a)(1)(B)(9). However, there are other reasons to deny the application as not being in the public interest, as discussed below.

2. Granting Allied's application is not in the public interest because it will divert federal high cost funding from other companies

The FCC's *Interim Cap Order* caps the total annual CETC support for each state at the level of support that CETCs in the state were eligible to receive during March 2008 on an annualized basis. See *Interim Cap Order* at para. 1. Thus any federal high-cost support for which Allied will become eligible as a result of its designation would reduce on a dollar-for-dollar basis amounts that have been previously approved for other CETCs serving South Carolina. These are amounts that are relied upon by those carriers to fulfill the plans that were previously approved by the Commission.

In the case of Farmers and Horry, their designated service areas predominantly cover rural telephone company service areas.⁸ FTC Communications' designated service area is the incumbent LEC area served by Farmers Telephone Cooperative. See Order No. 2007-805 at p. 8. HTC Communications' designated service area comprises Horry's incumbent LEC service area and 6 Verizon South wire centers. See Order No. 2008-273 and Exhibit B to HTC Application in Docket No. 2007-402-C. These carriers have used and are using the federal high-cost support they receive to implement build-out plans approved by the Commission that provide for improved wireless coverage in areas served by rural telephone companies. In these prior proceedings, the Commission found that it was in the public interest to approve these build-out plans and the corresponding federal funds. See Commission Order Nos. 2007-805 and 2008-273. The Commission found it important that these carriers would improve service in rural areas. See Order No. 2007-805 at p. 8 (noting that 70% of the existing cell sites in FTC's service area produce less than 500,000 minutes per month, which is 2 to 4 times below the volume that large carriers use to justify build-out of a cell site); Order No. 2008-273 at pp. 6-7 (noting that HTC's network improvement plan included the addition of "numerous cell sites that will significantly improve the existing coverage of its network, particularly in rural areas of its service territory"). The Commission also found it important that designation of HTC would allow it to construct facilities in the vicinity of communities whose per capita income was well below the state average, and that HTC had demonstrated that some areas of its service territory provided limited or no coverage at all, even when planned additions were taken into account. Id. The reduction of funding to these previously-approved CETCs to implement build-out plans

⁸ This is true of Cricket's designated service area as well. Cricket's designated area includes the entire rural service areas of Bluffton and Hargray Telephone Companies; 7 wire centers served by United/Embarq (also a rural telephone company), and one Verizon South wire center. See Order No. 2007-804 at p. 7; Exhibits B, C, and D to Application.

approved by the Commission would result in cutbacks to their service improvement plans, reducing the rural consumer benefits anticipated with the initial grant of CETC status. See Tr. at 230, line 19 through 231, line 3.

Allied simply did not make the same kind of rural-focused, detailed demonstrations that other carriers made, as described above. In contrast to FTC's and HTC's designated areas, Allied's proposed area includes numerous BellSouth/AT&T and Verizon/Frontier wire centers. Furthermore, Allied proposes to build 75% of the wireless towers for which it seeks funding over the next two years in areas that are served by non-rural telephone companies, primarily in areas where BellSouth/AT&T is the incumbent LEC. This is particularly concerning because it is vastly disproportionate to the amount of funding Allied will receive based on its service to those areas. Under the "identical support" rule, CETCs qualify for federal USF based on the cost incurred by the incumbent LEC serving the area. While the identical support rule has been widely criticized, and the FCC proposes to eliminate the rule in the near future, it is currently in place. In this case, Allied would receive funding based on all of the wireless lines (or handsets) it currently serves, many of which are located in rural telephone company areas and are associated with correspondingly high federal USF per-line amounts. In fact, 85% of Allied's proposed funding will come as a result of the wireless lines it serves in rural telephone company areas. Yet its build-out plan is heavily geared toward improving wireless service in non-rural service areas. It does not serve the public interest to allow Allied to essentially shift funding from its intended use in rural high-cost areas to other, lower-cost areas.

Thus, designation of Allied as a CETC would harm the public interest by diverting funding from rural telephone company areas in two respects: First, it would divert funds from previously-approved CETCs serving rural telephone company areas, impairing their ability to

continue to fulfill the expected consumer benefits resulting from their designation; and second, it would divert funds that are calculated based on service to rural customers and redirect that funding to build towers primarily in non-rural telephone company areas.

Not only would Allied's designation divert funding, but it would divert an extremely large amount of funding. Allied's service area is very large, comprising the entire service areas of 8 rural telephone companies, 38 BellSouth/AT&T wire centers, and 11 Verizon/Frontier wire centers. See Exhibit 2 to Application. Allied's proposed designated area is so large that, if the Commission were to approve its application, Allied would become the largest recipient of CETC funding in South Carolina, receiving 41.6% of the capped amount, at the expense of other previously-approved CETCs, who would see a corresponding percentage reduction in their funding. See Tr. at 239-240; Exhibit GHB-2 included in Hearing Exhibit No. 5 (Allied's proposed federal USF draw would be 41.6 % of the capped amount, reducing other carriers' amounts by the same proportion); Tr. at 123, lines 10-12 (Allied's witness conceded that Mr. Brown's calculations regarding the reduction of funding for other carriers are correct). In response to questions from the Commission, Allied acknowledged that its entry would impact other carriers' plans. See Tr. at 155-156. In fact, Allied's witness stated that it would be "difficult for [Allied]" (to comply with its own proposed plan) if the Commission were to designate additional CETCs in Allied's service area after approval of Allied's application. See Tr. at 167.

3. Granting Allied's application is not in the public interest because Allied's service offers no unique advantages

As part of its public interest determination, the Commission must consider "the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering." S.C. Code Ann. Regs. § 103-690(C)(b). In this case, Allied did not

demonstrate any increased consumer choice or unique advantages associated with its service. Allied is already providing competitive service in the area for which it seeks CETC designation. Thus, its designation will not provide an additional competitive alternative. Additionally, the evidence shows that there are already numerous other wireless carriers in the area. See Tr. at 223-224; Exhibit GHB-1 included in Hearing Exhibit No. 5. Of the 22 rural company wire centers for which Allied is seeking designation, 1 currently has two wireless carriers providing service, 1 has 4 wireless carriers providing service, and the other 20 wire centers have between 5 and 7 wireless carriers currently providing service. Hearing Exhibit No. 5, Exhibit GHB-1.

Not only are there numerous wireless carriers providing service, but they are providing robust service. Each of the wire centers has at least 2 wireless carriers currently providing mobile 3G broadband service, with 19 of the wire centers having 4 or more carriers currently providing 3G service. Id. In such a competitive market, it simply does not make sense, nor is it in the public interest, to fund one of the competitive carriers. In fact, it was not clear from the record whether Allied would not make the investments at all in the absence of funding, or would make them in the ordinary course but on a longer time frame without funding. See Tr. at 231, lines 3-5.

Allied's witness attempted to suggest that its application was somehow unique or served the public interest because Allied's service area includes counties that have been classified as "unserved" by the FCC. However, the FCC's classification of these counties is outdated and illogical. See Sixth Broadband Deployment Report, GN Docket Nos. 09-137 and 09-51, FCC 10-129 (rel. July 20, 2010), at p. 2, fn 4, and at paras. 4-5 (the FCC used relatively old 2008 data to assess the availability of broadband, while at the same time drastically changing the definition of broadband from 200 kbps in each direction to forward-looking threshold speeds of 4 Mbps up

and 1 Mbps down); see also Tr. at 112-114 (pointing out that the FCC Report lists Lexington and Richland Counties as “unserved” while Hampton, Jasper and Williamsburg Counties are listed as “served”). Furthermore, the FCC’s classification of unserved counties for purposes of broadband deployment is irrelevant to this proceeding, because Allied is not proposing to provide wireless service at a level that would meet the FCC’s definition of being “served.” See Tr. at 115-116 (Allied will provide 3G service); Tr. at 246 (Mr. Ranaraja “conveniently ignores the fact that the 3G service that Allied proposes to offer does not generally provide 4 Mbps broadband service, so designation of Allied as an ETC will not change the classification of these counties as unserved.”).

Contrary to Allied’s assertions, its proposed Lifeline service is not unique, either. Incumbent LECs provide basic local exchange telephone service, including Lifeline service to low-income customers, throughout the area. In addition, both SafeLink Wireless and Assurance Wireless have been designated as wireless CETCs in areas served by Allied as well as throughout the State of South Carolina for the purpose of providing Lifeline service to low-income customers. See Order No. 2009-879 in Docket No. 2009-144-C (designating SafeLink Wireless); Order No. 2011-76 in Docket No. 2010-91-C (designating Assurance Wireless).

Allied’s witness also argued that Allied’s use of CDMA technology was somehow unique, but conceded on cross-examination that other carriers use CDMA technology, including Verizon Wireless – one of the two largest wireless carriers operating in South Carolina. Tr. at 107-109.

V. FINDINGS AND CONCLUSIONS

1. The Commission has authority, pursuant to Section 214(e)(2) of the Act, to make a determination regarding Allied's application for designation as a wireless CETC for purposes of receiving federal USF.

2. Section 214(e)(2) of the Act allows the Commission discretion in all ETC designation cases to consider the public interest, convenience and necessity.

3. Pursuant to the statutory standard set forth in Section 214(e)(2) of the Act, the Commission "may," but is not required to, designate more than one carrier as an ETC for a service area served by a rural telephone company.

4. With respect to areas served by rural telephone companies, before the Commission may designate additional ETCs to serve such areas, Section 214(e) of the Act requires that the Commission make an affirmative finding that such designation is in the public interest.

5. The applicant has the burden of proving that it meets the requirements to be designated, and that its designation as an ETC is in the public interest. See Commission Order No. 2007-805 at p. 6; Commission Order No. 2008-273 at p. 5.

6. Universal service funding is intended to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates, and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas. 47 U.S.C. § 254(b). In determining whether granting a request for designation as an ETC serves the public interest, we must keep in mind this overriding principle.

7. The FCC's *Interim Cap Order* caps the total annual CETC support for each state at the level of support that CETCs in the state were eligible to receive during March 2008 on an

annualized basis. *Interim Cap Order* at para. 1. Thus, any funding approved for Allied would come at the expense of funding for previously-approved CETCs. These are amounts that are relied upon by those carriers to improve service in rural areas of the State pursuant to build-out plans previously approved by the Commission. See Tr. at 230. Designation of Allied would impair other CETCs' ability to continue to fulfill the expected consumer benefits resulting from their designation. See Tr. at 230-231.

8. Because of the extremely large size of Allied's service area, if designated as a CETC, Allied would become the largest recipient of CETC funding in South Carolina. Allied would be eligible to receive 41.6% of the capped amount, at the expense of other previously-approved CETCs, who would see a corresponding percentage reduction in their funding. Tr. at 239-240; Exhibit GHB-2 included in Hearing Exhibit No. 5; Tr. at 123, lines 10-12.

9. Allied's proposal would also divert funding from rural areas by taking high-cost funding that is calculated based on service to customers located in areas served by rural telephone companies and spending the majority of that funding in non-rural telephone company service areas. Tr. at 230. Allied proposes to receive 85% of its federal USF funding based on the lines it serves in rural telephone company areas, but to build only 25% of its federal USF-funded towers in areas served by rural telephone companies. See Tr. at 230; Exhibit 5 to Application.

10. It is unclear from Allied's application which, if any, of its proposed expenditures are dependent on the receipt of federal USF funding and which expenditures would be made in the ordinary course of business, even in the absence of funding.

11. Allied has failed to establish that its designation would increase consumer choice or that its service offering has unique advantages that would advance the public interest. Allied

is already providing wireless service in its proposed CETC area. See Tr. at 116. Numerous other wireless carriers also provide service in the area, including robust 3G wireless service currently being provided by a number of wireless carriers for each of the areas in which Allied seeks designation. See Tr. at 223-224; Exhibit GHB-1 included in Hearing Exhibit No. 5.

12. Lifeline service to low-income customers is available in Allied's proposed designation area from both wireline and wireless service providers.

13. We find that Allied has not met its burden of establishing that the public interest will be met by granting its request for designation as a wireless CETC in the State of South Carolina. In fact, we have significant concerns that designation of Allied as a CETC could harm the public interest and jeopardize universal service.

14. For all of these reasons, and given the uncertain times in which we find ourselves, when the FCC is considering significant wholesale changes to the federal USF and, in particular, the manner in which CETCs are funded, the most prudent thing for the Commission to do is to deny Allied's application for designation as a CETC.

IT IS THEREFORE ORDERED THAT:

Allied's request for designation as a wireless competitive eligible telecommunications carrier within certain areas of the State of South Carolina is denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

John E. Howard, Chairman

ATTEST:

David A. Wright, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2010-385-C

IN RE:

Application of Allied Wireless Communications)
Corporation d/b/a Alltel for Designation as an)
Eligible Telecommunications Carrier)
_____)


**CERTIFICATE
OF SERVICE**

I, Rebecca W. Martin, do hereby certify that I have this date served one (1) copy of the attached Proposed Order upon the following parties causing said copy to be deposited with the United States Postal Service, first class postage prepaid and properly affixed thereto, and addressed as follows:

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May 2, 2011

Columbia, South Carolina